

## **REMARKS**

### **The Claims**

Claims 1-44 are currently pending in the application. Claims 1-10, 14, 18-22, 29, 30 and 32-44 were withdrawn from further consideration pursuant to the Examiner's restriction requirement (paper no. 9) and Applicants' provisional election with traverse of Group II, Claims 11-13, 15-17, 23-28 and 31 (paper no. 10). Presently, Claims 23 and 27 have been allowed and the remaining claims are under rejection as set forth below.

Applicants have cancelled Claims 1-44 without prejudice and reserve the right to prosecute claims of corresponding subject matter in subsequent applications. Applicants have added new Claims 45-60 which recite new hyperglycosylated analogs of erythropoietin and pharmaceutical compositions thereof. The new claims are fully supported by the specification and do not introduce new matter or raise new issues requiring further consideration and/or search. Entry of the new claims is respectfully requested.

### **Claim Objections**

Claims 28 and 31 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to the previous claim in the alternative. This objection is moot in view of the cancellation of claims 28 and 31.

### **Rejections under 35 U.S.C. 112**

Claims 11-13, 15-17 and 24-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite. The claims in their present form are dependent on claims directed to a non-elected invention. It is argued that it is unclear which limitations in the base claims are to be incorporated into the claims currently being examined. This rejection is moot in view of the cancellation of Claims 11-13, 15-17 and 24-26. New claims 45-60 are not dependent on claims directed to a non-elected invention.

### **Rejection under 35 U.S.C. 102**

Claims 11-13, 24-26, 28 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by the disclosure of WO95/05465 which was cited by Applicants. The Examiner argues that the disclosure of WO95/05465 taught, among other things, N-linked carbohydrate chains at one or more of positions 30,

51, 57, 69, 88, 89, 136 and 138 of the amino acid sequence of human erythropoietin, DNA sequences encoding such erythropoietin analogs, recombinant plasmids and host cells for expressing said analogs, and pharmaceutical compositions comprising said analogs.

The rejection is moot in view of the cancellation of Claims 11-13, 15-17 and 24-26. Claims 45-60 added herein recite new hyperglycosylated analogs of erythropoietin.

#### Rejection under 35 U.S.C. 103

Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO95/05465 in view of U.S. Patent No. 5,559,093 to Yoshitomi et al. The Examiner argues that the disclosure of WO95/05465 taught, among other things, N-linked carbohydrate chains at one or more of positions 30, 51, 57, 69, 88, 89, 136 and 138 of the amino acid sequence of human erythropoietin, DNA sequences encoding such erythropoietin analogs, recombinant plasmids and host cells for expressing said analogs, and pharmaceutical compositions comprising said analogs. It is also argued that Yoshitomi teaches the use of sodium citrate, human serum albumin, and benzyl alcohol.

The rejection is moot in view of the cancellation of Claims 15-17. Claims 45-60 added herein recite new hyperglycosylated analogs of erythropoietin.

Applicants acknowledge that the subject matter of Claims 23 and 27 is allowable. Although claims 23 and 27 have been cancelled, those claims added herein which recite the corresponding subject matter are also believed to be allowable.

**CONCLUSION**

Claims 45-60 are in condition for allowance and an early notice thereof is solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Robert B. Winter', is written over the typed name.

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